



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,700	01/07/2005	Ralf Neuhaus	2002P10203WOUS	5200
7590 06/01/2007				
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830				
			EXAMINER KIM, TAE K	
			ART UNIT 2109	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/520,700

Applicant(s)

NEUHAUS ET AL.

Examiner

Tae K. Kim

Art Unit

2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-29 is/are rejected.
- 7) ☒ Claim(s) 12, 15-21, and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. WO 2004/006094.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 01/07/2005
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

Art Unit: 2109

### **DETAILED ACTION**

This is in response to the application filed on January 7<sup>th</sup>, 2005 in which claims 1 – 11 were presented for examination. An amendment to the application was made on January 7<sup>th</sup>, 2005 canceling the claims 1 – 11 and added claims 12 – 29, which are now presented for examination.

#### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/520700, filed on January 7<sup>th</sup>, 2005.

#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on January 7<sup>th</sup>, 2005 was filed on the mailing date of the U.S. national PCT application on January 7<sup>th</sup>, 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Abstract***

The abstract of the disclosure is objected to because of the grammatical errors, as in the first sentence, and the spelling errors, such as misspelling initialized. Correction is required. See MPEP § 608.01(b).

### **Status of Claims**

Claims 1 – 11 are cancelled and claims 12 – 29 are pending, of which claims 12, 18, and 25 are in independent form.

### ***Claim Objections***

1. Claims 12, 18 and 25 are objected to because it is unclear whether the “service provided” and the “identical software-controlled service” are the same service.
2. Claim 12 is objected to because of the following informalities: grammatical error in the last sentence. Appropriate correction is required.
3. Claims 15, 16 and 17 are objected to because of the following informalities: improper grammar used to reference to a singular claim. Appropriate correction is required.
4. Claims 19 and 20 are objected to because of the following informalities: improper punctuation, missing a period at the end of the sentence. Appropriate correction is required.
5. Claim 21 is objected to because of the following informalities: improper grammar. Appropriate correction is required.
6. Claim 26 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Within the applicant's specification, it is disclosed that a “servent” is a communication component that has the

Art Unit: 2109

ability to function both as a server and a client. Therefore, the additional limitation specified is not a further limitation of Claim 25.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 – 16, 18 – 29 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT application WO/55740 filed by Rangarajan et al. (hereinafter referenced as Rangarajan).

1. Regarding Claim 12, Rangarajan anticipates the claimed method for updating the software controlling the services provided by multiple components in a communication network where the components using identical software compare information regarding that software and initialize updates when these versions are different. Rangarajan discloses a method of automatically upgrading software (lines 11 – 12, pg. 6) on a computer connected to a communication network (lines 12 – 13, pg. 6) by comparing the software files on the computer with software files available on other computers within the network (lines 16 – 17, pg. 6) and initializing an update to the software if the files are different (lines 3 – 5, pg. 7). Rangarajan also discloses a peer-to-peer network as one embodiment of a communication network used to distribute software (lines 6 –

Art Unit: 2109

12, pg. 3); where each component on the network can interchange and compare files with each other. The services are software-controlled meaning the software, not the services, is what is actually being compared and updated, which in turn, changes the various services provided by the component within the network. Rangarajan encompasses the elements of the claimed invention by allowing various components connected to the network to update software by comparing and interchanging files with multiple components connected to the network.

2. Regarding Claim 13, Rangarajan anticipates the additional limitation embodied in this dependent claim where the updates to the software are being transferred from the component with the most recent version of the software to the component that has an older version. Rangarajan discloses all the limitations of Claim 12. Furthermore, Rangarajan discloses the method of ascertaining whether or not the software installed in the computer is an older version of that software (lines 16 – 17, pg. 6) and the upgrading process of that software when necessary (lines 18 – 25, pg. 6). As mentioned above, a communication network comprising of peer-to-peer components will allow one component to obtain the necessary software files from another component within the same network (lines 6 – 12, pg. 3). Rangarajan encompasses the limitations set forth where one component updates its software from another component connected to the network.

3. Regarding Claim 14, Rangarajan anticipates the additional limitation embodied in this dependent claim where the updates to the software are being provided from a third communication component on the network. Rangarajan discloses all the limitations of

Art Unit: 2109

Claim 12. Furthermore, Rangarajan discloses that more than one computer within the network may contain the necessary files (lines 2 – 3, pg. 3); where a third component is used to update the files of the first component. Rangarajan encompasses the limitations set forth where one component updates its software from more than one other component connected to the network.

4. Regarding Claim 15, Rangarajan anticipates the additional limitation embodied in this dependent claim where the software comparison of the software release is repeatable at set time intervals. Rangarajan discloses all the limitations of Claim 12. Furthermore, Rangarajan discloses the various times when the software comparison may take place (lines 28 – 33, pg. 6). More specifically, Rangarajan discloses that these comparisons may be done at any “predetermined period of time” (line 33, pg. 6). These predetermined periods of time may be used to create repeatable, set time intervals, which is the limitation set forth, and therefore, anticipated by Rangarajan.

5. Regarding Claim 16, Rangarajan anticipates the additional limitation embodied in this dependent claim where the network “includes a packet-switching network.” Rangarajan discloses all the limitations of Claim 12. Furthermore, Rangarajan discloses that any suitable form of communication network may be used to upgrade the software including the Internet, a local area network, a wide area network, and a virtual private network (lines 11 – 13, pg. 4). The examples given in Rangarajan are examples of packet-switching networks and encompass the limitations set forth.

6. Regarding Claim 18, Rangarajan anticipates the claimed method of updating the types of services a component on a communication network may provide by activating

Art Unit: 2109

that component, which does not have the necessary software or updates to provide such services, from another component connected to the network which will then initialize a download of the necessary software or updates to the activated component to perform such services. Rangarajan discloses a method for updating the software (lines 12 – 25, pg. 5) on a computer connected to a communication network (lines 13 – 14, pg. 5) by activating the software application on a computer that does not have the necessary files to run such an application (lines 15 – 16, and 18, pg. 5). The necessary files are made available within the network and accessible by any computer connected to the network (line 17, pg. 5). Rangarajan also discloses a peer-to-peer network as one embodiment of a communication network used to distribute software (lines 6 – 12, pg. 3); where each component on the network can interchange and compare files with each other. This network configuration will enable one computer to run software applications on another computer connected to the network (line 8, pg. 3). If the activated computer does not have the necessary files, it will download those files from another computer within the network (lines 15 – 25, pg. 5). Rangarajan encompasses the elements of the claimed invention by allowing one component to activate another component in the network to upgrade the software-controlled services needed to perform the requested services.

7. Regarding Claim 19, Rangarajan anticipates the additional limitation embodied in this dependent claim where the first component initiates the installation or updates of the software on the second component while the services are performed by the first component when it is determined that the second component cannot perform those



services. Rangarajan discloses the fact that more than one computer connected to the communication network can act as a file server (line 3, pg. 3) and that each computer can perform the functions of a file server and a client (lines 10 – 12, pg. 3). Rangarajan encompasses the limitations set forth where the first component, acting as both a server and a client, can initiate the upgrade of the software controlling the services of another component and then proceed to perform a requested service.

8. Regarding Claim 20, Rangarajan anticipates the additional limitation embodied in this dependent claim where the first component has the necessary software which is downloaded to the second component when it is determined the second component does not have the software required. Rangarajan discloses the fact that more than one computer connected to the communication network can act as a file server (line 3, pg. 3) and that each computer can perform the functions of a file server and a client (lines 10 – 12, pg. 3). Rangarajan encompasses the limitations set forth where the necessary software files will be downloaded from the first component to the second component within the network.

9. Regarding Claim 21, Rangarajan anticipates the additional limitation embodied in this dependent claim where the software required by the second component, to perform the services of requested by the first component, is downloaded from a third component within the network. Rangarajan discloses the fact that more than one computer connected to the communication network can act as a file server (line 3, pg. 3) and that each computer can perform the functions of a file server and a client (lines 10 – 12, pg. 3). Rangarajan encompasses the limitations set forth where the necessary software

Art Unit: 2109

files will be downloaded from a third component to the second component within the network.

10. Regarding Claim 22, Rangarajan anticipates the additional limitation embodied in this dependent claim where an update is performed when the second component has the necessary hardware to perform the services. Rangarajan discloses the fact that more than one computer connected to the communication network can act as a file server (line 3, pg. 3) and that each computer can perform the functions of a file server and a client (lines 10 – 12, pg. 3). Software must be installed on hardware for the software to function at all; no component can function properly without the proper hardware. Rangarajan encompasses the limitations set forth where the necessary software files will be downloaded when the necessary hardware is present within the component.

11. Regarding Claim 23, Rangarajan anticipates the additional limitation embodied in this dependent claim where the updates to the software are also available to other components on the network. Again, Rangarajan discloses the fact that more than one computer connected to the communication network can act as a file server (line 3, pg. 3) and that each computer can perform the functions of a file server and a client (lines 10 – 12, pg. 3). It is anticipated that If one computer has the updates to the software, that computer will make those updates available to all other computers in the network that request it. Likewise, once the updates are downloaded to the second computer, the second computer will also make the updates available to other computers.

Art Unit: 2109

Rangarajan encompasses the limitations set forth where the necessary software files are available in multiple components within the network.

12. Regarding Claim 24, Rangarajan anticipates the additional limitation embodied in this dependent claim where at least one component within the network has the most up-to-date version of the software for multiple, distinct services. Rangarajan discloses the networking configuration where one or more file servers are found in the network (lines 1 – 3, pg. 3). In a more traditional network, these file servers will be dedicated to the distribution of software throughout the network. Therefore, Rangarajan encompasses the limitations set forth where the file servers will have the most up-to-date versions of the software needed for the various types of services provided.

13. Regarding Claim 25, Rangarajan anticipates the claimed method for updating the software controlling the services provided by multiple components in a communication network where the components using identical software compare information regarding that software and initialize updates when these versions are different. Rangarajan discloses a method of automatically upgrading software (lines 11 – 12, pg. 6) on a computer connected to a communication network (lines 12 – 13, pg. 6) by comparing the software files on the computer with software files available on other computers within the network (lines 16 – 17, pg. 6) and initializing an update to the software if the files are different (lines 3 – 5, pg. 7). Rangarajan also discloses a peer-to-peer network as one embodiment of a communication network used to distribute software (lines 6 – 12, pg. 3); where each component on the network can interchange and compare files with each other. The services are software-controlled meaning the software, not the

Art Unit: 2109

services, is what is actually being compared and updated, which in turn, changes the various services provided by the component within the network. Rangarajan encompasses the elements of the claimed invention by allowing various components connected to the network to update software by comparing and interchanging files with multiple components connected to the network.

14. Regarding Claim 26, Rangarajan anticipates the additional limitation embodied in this dependent claim where each component has both server and client functionality. Rangarajan discloses a peer-to-peer network as an alternate embodiment of the communication network (lines 6 – 12, pg. 3), where each component on the network can function as a file server and as a client. Rangarajan encompasses the limitations set forth where each component has both server and client functionality.

15. Regarding Claim 27, Rangarajan anticipates the additional limitation embodied in this dependent claim where the updates to the software are being transferred from the component with the most recent version of the software to the component that has an outdated version. Rangarajan discloses the method of ascertaining whether or not the software installed in the computer is an older version of that software (lines 16 – 17, pg. 6) and the upgrading process of that software when necessary (lines 18 – 25, pg. 6). The aforementioned communication network, comprising of peer-to-peer components (lines 6 – 12, pg. 3), will allow one component to obtain the necessary software files from another component within the same network.

16. Regarding Claim 28, Rangarajan anticipates the additional limitation embodied in this dependent claim where the updates to the software are being provided from a third

Art Unit: 2109

communication component on the network. As mentioned in the above paragraph, a peer-to-peer network allows multiple components to share software files with one another. The specifications in Rangarajan state that there can be more than one file server within a network (lines 2 – 3, pg. 3) and, therefore, the most recent version of the software may be found in and transferred from more than one component having the most recent version of the software within the network.

17. Regarding Claim 29, Rangarajan anticipates the additional limitation embodied in this dependent claim where the software comparison is repeatable at set time intervals. Claim 14 (lines 22 – 28, pg. 13) and the specifications (lines 28 – 33, pg. 6) in Rangarajan disclose the various times when the software comparison can take place. More specifically, Rangarajan discloses that these comparisons can be done at any “predetermined period of time.” These predetermined periods of time can be used to create repeatable, set time intervals, which is the additional limitation set forth.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2109

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rangarajan in view of what is commonly known in the art at the time the pending application was filed.

Regarding Claim 17, Rangarajan discloses all the limitations of Claim 12 above. Although Rangarajan discloses the upgrading of software that controlled the services that the communication components provided, it does not particularly disclose that the software-controlled services consist of gateway functionality, voicemail server, and address server.

It is commonly known to one of ordinary skill in the art at the time the application was filed that a computer having the proper hardware and software can perform one or more of the functions of a gateway, voicemail server, and address server. Rangarajan's disclosed method of distributing and updating software can be applied to modify the types of services that each computer in the network will provide. Having computers in a communication network that perform the functions of a gateway, voicemail server, and address server are just various types of software and/or hardware that is used within each computer. One of ordinary skill in the art would be motivated to use a peer-to-peer network to update or install software on computers to perform the services described.

Claims 25 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangarajan in view of The Gnutella Protocol Specification v0.4 (hereinafter, referenced as Gnutella).

Regarding Claims 25 – 29, Rangarajan discloses a method of automatically upgrading software (lines 11 – 12, pg. 6) on a computer connected to a communication network (lines 12 – 13, pg. 6) by comparing the software files on the computer with software files available on other computers within the network (lines 16 – 17, pg. 6) and initializing an update to the software if the files are different (lines 3 – 5, pg. 7).

Rangarajan also discloses a peer-to-peer network as one embodiment of a communication network used to distribute software (lines 6 – 12, pg. 3); where each component on the network can interchange and compare files with each other. The services are software-controlled meaning the software, not the services, is what is actually being compared and updated, which in turn, changes the various services provided by the component within the network. Rangarajan further discloses the method of ascertaining whether or not the software installed in the computer is an older version of that software (lines 16 – 17, pg. 6) and the upgrading process of that software when necessary (lines 18 – 25, pg. 6). Additionally, Rangarajan discloses that more than one computer within the network may contain the necessary files (lines 2 – 3, pg. 3); where a third component is used to update the files of the first component.

Rangarajan also discloses that these comparisons may be done at any “predetermined period of time” (line 33, pg. 6), where these predetermined periods of time may be used to create repeatable, set time intervals. Rangarajan does not, however, specifically use the term “servent” to describe a communication component that has the functionality of a server and a client.

Art Unit: 2109

Gnutella discloses a decentralized peer-to-peer network with “servents” to describe components that function both as a client and a server (lines 2 – 4, p. 1). These “servents” provide an interface where a user can issue and respond to search queries (lines 4 – 7, pg. 1). Therefore, it would have been obvious for one skilled in the art to have been motivated to have both client and server functionality in their communication components to update software files within a communication network. Using “servents” would provide the means to decentralize the location of software upgrades/updates while quickening the time to distribute the upgrades/updates to all components in the network.

#### **Additional References**

Additional references that are relevant to the pending application and not cited:

US 2001/0027479A1; US 2001/0021948A1; US 6976962; US 6078851; US 2003/0037130; WO 01/86419A2; EP 0651330A2

#### **Contacts**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae K. Kim, whose telephone number is (571) 270-1979. The examiner can normally be reached on Monday – Friday (8:00 AM – 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Frantz Coby, can be reached on (571) 272-4017. The fax phone number for submitting all Official communications is (703) 872-9306. The fax phone number for



Art Unit: 2109

submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the examiner at (571) 270-2979.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TKK



  
**FRANTZ COBY**  
**PRIMARY EXAMINER**